

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

	§	
10TALES, INC.,	§	
	§	
Plaintiff,	§	Case No. 6:20-cv-810
	§	
v.	§	JURY TRIAL DEMANDED
	§	
TIKTOK, INC.,	§	
	§	
Defendant.	§	
	§	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff 10Tales, Inc. (“10Tales”), by and through its attorneys, for its complaint against Defendant TikTok, Inc. (“TikTok”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for infringement of U.S. Patent No. 8,856,030 entitled “Method, System and Software for Associating Attributes within Digital Media Presentations” (“the ’030 patent,” attached as Exhibit A), arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

2. 10Tales—and its founder David Russek—is the pioneering developer of innovative technology used to deploy advanced storytelling through the use of 10 second videos submitted by a network of friends that become shared experiences among the friend network. 10Tales’s technology has received numerous accolades from the entertainment industry, including, for example, the Mobile Excellence Awards. See <http://10tales.co/10tales.html>. David Russek is the inventor of the ’030 patent.



3. 10Tales alleges that TikTok infringes the '030 patent by making and using a system that infringes at least claim 1 of the '030 patent, including, *inter alia*, the “recommendation system” used in connection with the TikTok “For You” Feed.

#### **THE PARTIES**

4. Plaintiff 10Tales, Inc. is a Delaware corporation that maintains its principal place of business at 18 Coal Street, Middleport, Pennsylvania 17953.

5. On information and belief, Defendant TikTok is a California corporation with a regular and established place of business in Austin, Texas, and a registered agent for service of process in this District at Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas, 78701.

#### **JURISDICTION AND VENUE**

6. 10Tales brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271, et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. The amount in controversy exceeds \$75,000.

8. This Court has personal jurisdiction over TikTok by virtue of TikTok’s systematic and continuous contacts with this District.

9. This Court has personal jurisdiction over TikTok by virtue of, *inter alia*, the fact that TikTok has committed, aided, contributed to, and/or participated in the commission of the tortious act of patent infringement that led to foreseeable harm to 10Tales in this District.

10. On information and belief, TikTok is in the business of providing a video-sharing social networking service through its app in this District, and offers products and/or services, including those accused herein of infringement, to customers and potential customers located in

Texas and in this District. On information and belief, TikTok distributes products directly to customers and through its partners and/or intermediaries located in State of Texas. On information and belief, TikTok derives significant financial benefits through its business in Texas and in this District.

11. On information and belief, the TikTok app has been downloaded over 165 million times within the United States, with millions of those users of its products and services within the State of Texas, many of whom reside within this District.

12. On information and belief, TikTok has a regular and established place of business in this District, including offices in Austin, Texas, which TikTok relies upon and uses to support its activities within this District that result in patent infringement. On information and belief, and as evidenced by Exhibit B and Exhibit C, TikTok has hired and continues to hire numerous employees within this District, at least some of whom have, are, and will in the future support TikTok's infringing activities within this District that will generate substantial revenue.

13. On information and belief TikTok maintains facilities within this District and has committed acts within this District that give rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice. Defendant has committed and continues to commit acts of infringement in this District by, among other things, providing its products and/or services that infringe the asserted patent.

14. This Court has specific personal jurisdiction over TikTok in this action pursuant to due process and the Texas Long Arm Statute because the claims asserted herein arise out of or are related to TikTok's substantial business in this forum and voluntary contacts with this forum, such voluntary contacts include but are not limited to: (i) at least a portion of the actions complained

of herein; (ii) purposefully and voluntarily placing one or more infringing products and/or services into this District and into the stream of commerce with the intention and expectation that they will be used by consumers in this District; or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services, including the infringing products and/or services, provided to customers in Texas and in this District. TikTok is subject to the Court's personal jurisdiction at least due to its distribution of products and/or services within Texas and the Western District of Texas. Within this state, TikTok has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, TikTok has derived revenues from its infringing acts occurring within the Western District of Texas. Further, TikTok is subject to the Court's jurisdiction because TikTok solicits and provides products and/or services to persons or entities in Texas and the Western District of Texas as evidenced by: (i) regularly doing or soliciting business; (ii) engaging in other persistent courses of conduct; and (iii) deriving substantial revenue from goods and services. TikTok has committed such purposeful acts and transactions in Texas such that it reasonably should know and expect that it could be haled into this Court because of such activity.

15. Relative to patent infringement, TikTok has committed and continues to commit acts in violation of 35 U.S.C. § 271, and has made and used the infringing system in this state, including in this District, and otherwise engaged in infringing conduct within and directed at, or from, this District. Such infringing system, namely the TikTok "recommendation system," has been and continues to be used in this District and the infringing conduct has caused, and continues to cause, injury to 10Tales, including injury suffered in this District. These are purposeful acts

and transactions in this state and this District such that TikTok reasonably should know and expect that it could be haled into this Court because of such activities.

16. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b) for at least the reasons set forth above, including but not limited to: a substantial part of the events or omissions giving rise to the 10Tales claims occurred in this District; TikTok has committed acts of infringement in this District; and TikTok has a regular and established place of business in this District. Defendant TikTok is registered to do business in the State of Texas, and on information and belief, has transacted business in this District and has committed acts of direct infringement in this District. TikTok conducts business in this District, including making and using the infringing system in this District. On information and belief, TikTok maintains offices in this District, hires and maintains employees in this District, and conducts business in this District consistent with its substantial physical presence in this District.

#### **COUNT I – INFRINGEMENT OF THE '030 PATENT**

17. 10Tales re-alleges and incorporates by reference the allegations set forth in paragraphs 1-16 as if fully set forth herein.

18. On October 7, 2014, the '030 patent, entitled “Method, System and Software for Associating Attributes within Digital Media Presentations” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '030 patent is attached as Exhibit A.

19. 10Tales is the owner of the '030 patent by virtue of an assignment effective as of March 29, 2015. A true and correct copy of that assignment agreement is attached as Exhibit D.

20. Pursuant to 35 U.S.C. § 282, the '030 patent is presumed valid.

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